THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.44 of 2003

22nd December 2006

Between:

P.Bhaskara Rao,S/o.Sangeeta Rao,50 years,residing at Ramnagar, Chirala Mandal, Prakasam District.

...PETITIONER

AND

1. Divisional Railway Manager, South Central Railway, Hyderabad Division, Secunderabad.

And two others.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.44 of 2003

ORDER: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Aggrieved by the order of the Central Administrative Tribunal, Hyderabad ('the Tribunal' for brevity) in O.A.No.596 of 2000 dated 27.03.2002, wherein the petitioner's request to be reinstated into service consequent upon his acquittal in the criminal case was rejected, the present Writ Petition is filed.

The Tribunal noted that this Court, in Crl.R.C.No.1200 of 1999, had reduced the punishment to payment of fine amount of Rs.500/- (Rupees five hundred only) and had disposed of the revision. The Tribunal recorded the concession of the counsel that he did not want to stress on the relief of reinstatement into service of the respondent-applicant and that he would only make submissions on the question of payment of subsistence allowance. The Tribunal disposed of the O.A. directing the petitioner herein to attend the office at Sr.DPO, South Central Railway, Hyderabad within a period of one month and fulfill the

necessary requirements to enable the respondents to make payment of subsistence allowance according to the petitioner-applicant's entitlement and directed the respondents to make payment within one month thereafter.

Sri D.Krishna Murthy, learned counsel for the petitioner, would submit that merely on the ground of conviction in the criminal case, an employee's services cannot be automatically terminated and that the competent authority is required to apply his mind to the facts and circumstances of the case and take an appropriate decision in this regard. He would further point out that the counsel, who had appeared on behalf of the petitioner before the Tribunal, had erroneously conceded that no relief of reinstatement could be sought, and would place before us the affidavit filed by the Counsel, who had appeared on behalf of the petitioner before the Tribunal, wherein it is stated that he had given this concession without instructions from the petitioner herein.

It is not for this Court, in proceedings under Article 226 of the Constitution of India, to examine the affidavit now filed before us and come to a conclusion that the petitioner's case should have been

decided on merits. These facts should have been brought to the notice of the Tribunal itself. In view of these facts now brought before us, we consider it appropriate to set aside the order of the Tribunal and remand the matter for its consideration afresh, including in the light of the affidavit now filed before us, and pass appropriate orders in accordance with law.

Subject to the above, the Writ Petition is disposed of. However, in the circumstances, without costs.

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(B.PRAKASH RAO, J)

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(RAMESH RANGANATHAN, J)

22nd December 2006
RRB